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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,862	12/14/2004	Kenji Hyodo	450100-05035	9013
7590	05/14/2008		EXAMINER	
William S Frommer Frommer Lawrence & Haug 745 Fifth Avenue New York, NY 10151			CHIO, TAT CHI	
			ART UNIT	PAPER NUMBER
			2621	
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			05/14/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/517,862	<b>Applicant(s)</b> HYODO, KENJI
	<b>Examiner</b> TAT CHI CHIO	<b>Art Unit</b> 2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 17 March 2008.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-3 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-3 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)

Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 1-3 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Amada et al. (US 6,339,676 B1) in view of Kawamura et al. (6,075,920).

Amada et al. teach a recording apparatus for recording video data and audio data corresponding to the video data onto a recording medium, comprising:

- data forming means for forming second video data which is data based on first video data and whose transmission rate is lower than that of said first video data (col. 13, lines 41-45), forming second audio data having a plurality of channels which is data based on first audio data having zero, one, or a plurality of channels corresponding to said first video data and whose transmission rate is lower than that of said first audio data (col. 13, lines 41-45, col. 4, lines 1-16), and outputting data of a low rate in which

said second video data and said second audio data have been multiplexed (col. 4, lines 1-16);

- recording means for recording said first video data, said first audio data, and said low-rate data corresponding to the first video data and first audio data onto the recording medium (Fig. 1 and Fig. 7).
- wherein said data forming means sets said number of channels of said second audio data to a fixed value irrespective of said number of channels of said first audio data (col. 4, lines 1-16, the number of channels is set to two).

    However, Amada et al. do not explicitly teach recording means for mixedly recording time-sequential meta data and non-time-sequential meta data corresponding to the first video data and first audio data onto the disc-shaped recording medium.

    Kawamura et al. teach recording means for mixedly recording time-sequential meta data and non-time-sequential meta data corresponding to the first video data and first audio data onto the disc-shaped recording medium (Fig. 1 and Fig. 3-Fig. 5). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to record time-sequential meta data and non-time-sequential meta data corresponding to the first video data and first audio data onto the disc-shaped recording medium to improve the availability of the data recording medium.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Amada et al. (US 6,339,676 B1) in view of Kawamura et al. (6,075,920) as applied to claim 1 above, and further in view of Kuroiwa et al. (US 6,788,881 B1).

Amada et al. teach a recording apparatus, wherein said data forming means forms audio data showing silence to the channels which do not correspond to the channels of said first audio data among said plurality of channels of said second audio data and outputs said low-rate data (col. 4, lines 1-16, if one of the input audio channels is missing, then the output of that channel also has no audio.)

However, Amada et al. and Kawamura et al. do not explicitly teach said second video data and said second audio data including the channels of the audio data showing said silence have been multiplexed.

Kuroiwa et al. teach said second video data and said second audio data including the channels of the audio data showing said silence have been multiplexed (col. 6, lines 55-65 and Fig. 6). Therefore, it would have been obvious to apply the technique of including the channels of audio data showing said silence have been multiplexed to improve the recording apparatus to enable efficient data management.

#### ***Conclusion***

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TAT CHI CHIO whose telephone number is (571)272-9563. The examiner can normally be reached on Monday - Thursday 9:00 AM-5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on (571)-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. C. C./  
Examiner, Art Unit 2621

/Thai Tran/  
Supervisory Patent Examiner, Art Unit 2621